

Paul Phillips

From: Burke, Dan <Dan.Burke@vermont.gov>
Sent: Tuesday, March 28, 2017 8:59 PM
To: Debra Bouffard; Owen J. McClain; Paul Phillips
Subject: Docket 8881 - DPS Testimony Master Exhibit List
Attachments: 8881 -Master Exhibit Table for all Witnesses.docx

I've attached a table that includes all of the exhibits referenced in the testimony that I plan to file tomorrow. The table indicates which exhibits have been marked as allegedly confidential or highly confidential for both FairPoint and Consolidated. There might be a few more exhibits in our final drafts, but we should not be adding any additional confidential or highly confidential documents. I plan to do a final review of the confidential designations in the morning to make sure that I have everything in order, but let me know if any of the designations in the table seem mistaken to you.

Paul, I spoke with Debra earlier today and let her know that my cover letter will explain that I am providing FairPoint and Consolidated with notice of our use of allegedly confidential documents later than the five days generally required under the protective agreement. Accordingly, the companies should be given additional time to file motions for protective treatment (which is how Deb and I handled a similar issue in Docket 8701).

I also intend to have separate envelopes and redacted testimonies for the confidential and highly confidential documents. To expedite your ability to start preparing for discovery, I will email the three of you un-redacted copies of the testimony tomorrow when it is filed, with the confidential exhibits sent by mail.

Thanks,
Dan

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Paul Phillips

From: Scott J. Rubin <scott.j.rubin@gmail.com>
Sent: Tuesday, March 28, 2017 4:29 PM
To: Debra Bouffard; Paul Phillips
Subject: Re: VT PSB 8881: Notice of confidential information

Debra / Paul,

(Including Paul on this because one of the documents is Confidential to FairPoint.)

I know, the timing and logistics have been crazy, but here's a list of Confidential documents that will be cited in Randy Barber's testimony:

- Confidential DPS.CC.1-1.1 (Excel file with CNSL projection model)
- Confidential Labor 1-6.1 (Morgan Stanley presentation to Consolidated's Board of Directors, October 31, 2016)
- Confidential attachment 2 to Labor 1-4 (December 3, 2016 Confidential Evercore presentation to FairPoint's Board of Directors)
- Confidential attachment to DPS.CC.1-2 (Morgan Stanley presentation to Consolidated's Board of Directors, December 3, 2016)
- Confidential attachment to DPS.CC.3-2 (Excel file with "stress test" results)

We are being quite cautious in treating as confidential not only direct references / excerpts / printouts, but also discussion / conclusions / etc. from those confidential documents.

I know you have legitimate concerns about transmitting confidential information by email. I subscribe to a secure file-sharing service (ShareFile from Citrix) that is used by many law firms precisely for this reason. If you are comfortable with my doing so, I can use that service to send you the confidential version of Mr. Barber's testimony tomorrow, so that you can see the confidential designations a day before you (and the Board) receive the sealed hard copy.

Scott

On Tue, Mar 28, 2017 at 3:26 PM, Debra Bouffard <dbouffard@sheeheyvt.com> wrote:

Scott,

The protective agreement requires we get notice ahead of the filing of confidential information so we address any issues and avoid inadvertent disclosures of confidential information.

I realize we are on tight schedule here. If you could, though, let me know what confidential information you intend to file under seal, that would be appreciated. I thought you might have a better sense today than you did yesterday of what you will use. Call me if that is easier.

Too, to avoid any inadvertent disclosures, I assume you will protect all information that has been designated as confidential (you said there will be no references to highly confidential), anything related or derived from such confidential information, and generally be overly inclusive in terms of protecting confidential information. Again, call me with any questions before your filing.

Thank you,
Debra

Debra L. Bouffard
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From: Scott J. Rubin [<mailto:scott.j.rubin@gmail.com>]
Sent: Monday, March 27, 2017 11:32 AM
To: Debra Bouffard; Paul Phillips
Cc: Burke, Dan
Subject: VT PSB 8881: Notice of confidential information

Debra / Paul (cc: Dan)

As you know, we will be filing testimony on Wednesday in VT PSB 8881 (FairPoint-Consolidated). The testimony of Randy Barber will include confidential information (but no highly confidential information). Because of delays in obtaining some of the designated confidential information, we are still working on the testimony and cannot specifically identify at this time all confidential documents to which Mr. Barber will refer. In addition, we also will treat as confidential any specific calculations, opinions, or conclusions derived from those confidential documents.

I plan to file a public (redacted) version of Mr. Barber's testimony on Wednesday. It will be filed on ePSB, with courtesy copies by email to all parties. In addition, by overnight delivery, we will file under seal (and serve on each of you) hard copy of the confidential version of Mr. Barber's testimony, in accordance with the

Board's ePSB instructions, section IV.c ("Confidential, non-public hard copies of such documents must be filed with the Board and served on other authorized parties to a Board proceeding within one business day of the date on which the document was considered filed using ePSB.")

After reviewing the confidential version of the testimony, I assume you will want to file the required documents with the Board to have such information treated as confidential. If, however, you find that we have marked anything that does not need to be confidential, please let me know and we can file a revised public version of the testimony.

Thanks,

Scott